

*Supplemental*  
**Notice of Allowability**

Application No.

09/888,005

Examiner

B. Dell Chism

Applicant(s)

CHENG ET AL.

Art Unit

1654

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' papers filed 22 September 2003.
2. ☒ The allowed claim(s) is/are 14-18, 21-30, 50 and 53-64.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



**CHRISTOPHER R. TATE  
PRIMARY EXAMINER**

## **DETAILED ACTION**

### ***Allowable Subject Matter***

This office action is in response to Applicants' response filed 22 September 2003, and is supplemental to the Notice of Allowance mailed 15 December 2003 wherein the Examiner misnumbered and misstated the correct numbers of the allowable claims (see correction below). During a telephone communication with Attorney Wei-Ning Yang, on 03 December 2003, claims 1-13, 31-49 and 65-74 were canceled. Claims 19-20 and 51-52 were previously canceled and Claims 14-18, 21-30, 50 and 53-64 are allowable.

1. The following is an examiner's statement of reasons for allowance: The instant application is neither anticipated by nor obvious over the prior art for the claimed stabilized vancomycin conjugate and formulation thereof. Cheng *et al.* (US Patent No. 5,627,080) teaches an immunoassay comprising use of a complex comprising a soluble bidentate reagent with a biotin member, anti-target analyte, and a biotin binding agent on a solid support, wherein the complex binds to haptenic analytes, i.e., vancomycin, for assay detection purposes. However, Cheng *et al.* does not teach the limitation of a stabilizing agent for the conjugate.

In claim 50, the use of the phrase "neutral pH" is interpreted to be that pH level defined in the specification at page 17 to be the range of pH 7-8.0.

In claim 55, the use of the phrase "lower molecular weight amine" is interpreted to be that genus described on pages 21-22 of the specification.

For these reasons the instant application is allowable.

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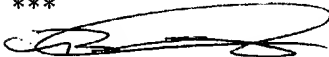
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Dell Chism whose telephone number is 571-272-0962. The examiner can normally be reached on 7:30 AM - 4:30 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

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B. Dell Chism



CHRISTOPHER R. TATE  
PRIMARY EXAMINER